ORDINANCE NO. 10.18

AN ORDINANCE REPEALING CHAPTER 9, ARTICLE IV
REGARDING MEDICAL MARIJUANA DISPENSARIES AND REPLACING IT
WITH A NEW CHAPTER 9, ARTICLE IV REGARDING CANNABIS BUSINESSES

THE CITY COUNCIL OF THE CITY OF MOUNTAIN VIEW DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Chapter 9, Article IV, of the Mountain View City Code is hereby repealed in its entirety and replaced by a new Chapter 9, Article IV, regarding cannabis businesses, to read as follows:

"ARTICLE IV.
CANNABIS BUSINESSES.

SEC. 9.90. Findings and purpose.

This ordinance is adopted to establish procedures to regulate operations of cannabis businesses in the City of Mountain View consistent with, and in furtherance of Chapter 36, Article IX of the Mountain View city code which establishes a zoning regulatory framework for cannabis businesses, and Chapter 43 of the Mountain View city code which establishes a cannabis business tax.

In accordance with state requirements for cannabis businesses to obtain city approval in order to obtain a state license, the city desires to create a registration system for certain cannabis-related businesses and to promulgate rules and regulations of cannabis businesses. It is the city's intent to register cannabis businesses in an orderly and transparent manner to eligible applicants according to the requirements of this article and applicable rules and regulations, and to mitigate the negative impacts brought by unregulated cannabis businesses, as well as to provide regulations to protect consumers from being vulnerable to the dangers inherent in ingesting and using a substance that was not subject to basic rules of safety for ingestible substances, and to hold businesses accountable to practices that protect consumers, as well as minimize potential adverse impacts and safety concerns to cannabis businesses, neighbors and the public at-large.

SEC. 9.91. Definitions.

The following definitions shall apply to this chapter:

a. "**Cannabis**" means all parts of the plant *Cannabis sativa Linnaeus*, *Cannabis indica* or *Cannabis ruderalis*, or any other strain or varietal of the genus Cannabis that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds of such plants. "Cannabis" also means cannabis as defined by Business and Professions Code Sec. 26001, subdivision (f), Health and Safety Code Sec. 11018, and by other state law. For purposes of this chapter, "cannabis" and "marijuana" will be used interchangeably.

b. "**Cannabis business**" means the activity of any natural or legal person, business or collective in the city relating to cannabis, including, but not limited to, transportation, distribution, manufacture, compounding, conversion, processing, preparation, testing, storage, packaging, delivery and sales (including both wholesale and retail sales) of cannabis, cannabis products or any accessories for the use of cannabis or cannabis products, whether or not carried on for gain or profit, whether for medical or recreational use and whether or not such business is licensed by the state. A

cannabis business does not include any business the only relationship of which to cannabis or cannabis products is the production or sale of cannabis accessories.

c. "**City manager**" means the city manager of the City of Mountain View or his/her designee.

d. "**Delivery**" means the transfer for any form of compensation of cannabis or cannabis products to a customer or caregiver at a location that is not a dispensary.

e. "**Employee**" means any person who renders any service to the cannabis business, including, but not limited to, an employee, independent contractor or volunteer.

f. "**Location**" means the lot or parcel or portion of a lot or parcel that is used by a cannabis business, dispensary or distribution facility.

g. "**Manager**" means an individual who, directly or indirectly, is engaged in the management of a cannabis business as may be evidenced by the individual being responsible for the cannabis business, organization, registration, supervision or oversight of the operation of the cannabis business and/or its employees, which oversight may include, but not be limited, to the following: performing the functions of president, vice president, board member, director, owner, operating officer, financial officer, secretary, treasurer, supervisor or manager.

h. "**On-site designated representative**" means a manager that is designated by the cannabis business to be present, and who is present, at all times during the cannabis business's hours of operation.

i. "**Owner**" means any person having more than a ten percent (10%) interest, legal or equitable, or otherwise, in a cannabis business.

j. "**Person**" means, without limitation, any natural individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, receiver, syndicate or other group or combination acting as a unit and includes the plural as well as the singular number.

k. "**Police chief**" means the Mountain View police chief or his/her designee.

l. "**Premises**" means each building or the portion of any building, on the location, where the cannabis business is located, including any site.

m. "**Rules and regulations**" means the City of Mountain View Rules and Regulations for Cannabis Business Procedures meant to implement and aid in the administration of this article, which are established by the police chief.

n. "**Transport**" means all activity involved in the movement of cannabis from one (1) location to another, including, but not limited to, loading, shipping and receiving. Transport does not include delivery to a qualified patient, caregiver or individual cannabis user age twenty-one (21) or older.

SEC. 9.92. Authority of the police chief.

a. It shall be the duty of the police chief to administer the provisions required by this chapter.

b. The police chief may, from time to time, promulgate such regulations and administrative guidelines consistent with the purpose, intent and terms of this chapter

as he or she deems necessary to implement or clarify it to aid in its enforcement. A copy of any such rules, regulations and administrative guidelines shall be on file and available for public examination in the police department **and posted to the city's** website.

c. The police chief may take such administrative actions as needed to administer the requirements of this chapter, including, but not limited to:

1. Registration, review, investigation, priority order and disqualification process for the cannabis businesses and forms necessary thereto.

2. Internal or external security requirements for the operation of the cannabis businesses.

3. Storage or display of cannabis.

SEC. 9.93. Registration requirements for cannabis businesses, and cannabis business owners, managers and employees.

a. **Cannabis business registration.** No person shall establish, operate or maintain a cannabis business within city limits without first obtaining from the police chief, and maintaining in effect, a notice of completed registration. It is unlawful to operate, establish or maintain a cannabis business while the cannabis business registration issued for such business has been suspended or revoked or has expired.

b. **Cannabis business owner, manager and employee registration.** No person shall participate in the ownership, management or operations of a cannabis business within city limits without first obtaining from the police chief, and maintaining in effect, a notice of completed registration. It shall be unlawful for a person to be an owner, manager or employee of a cannabis business or participate in the registered cannabis business unless the person obtains a notice of completed registration issued by the police chief.

SEC. 9.94. Applications for cannabis business registration.

a. **Submittal of cannabis business registration application.** After a proposed cannabis business obtains a valid Conditional Use Permit per Division 21 of Chapter 36 of the city code, each owner of a cannabis business shall file a written application with the police chief, on a form provided by the city, which contains information as required by such procedures in rules and regulations governing the administration thereof as are adopted by the police chief.

b. **Submittal of cannabis business owners, managers and members registration application.** Each person participating in the ownership, managing or operations of a registered cannabis business within city limits shall file a written application with the police chief, on a form provided by the city, which contains information as required by such procedures in rules and regulations governing the administration thereof as are adopted by the police chief.

c. **Other required information.** Applicants shall also submit other related information requested by the police chief in order to evaluate the background and qualifications of the applicant for registration.

d. **Payment of fees.** At the time of filing an application for registration, the applicant shall pay any applicable fee in an amount established by council resolution.

e. **Processing of application; Investigation.** Upon receipt of an application for registration, the police chief shall review the application and supplementary material

required by the city. If it is clear from the face of the application and supplementary materials that the applicant is not qualified for registration, the application may be disqualified without further investigation. If it appears from the face of the application and supplementary material that the applicant may be eligible for the registration sought, the police chief shall verify the information submitted by the applicant and shall further investigate the qualifications of the applicant as follows:

1. **Photographs/fingerprints/review of criminal history.** The police chief shall photograph the applicant and take a full set of the applicant's fingerprints and shall submit the fingerprints to the Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI) for evaluation. Upon receipt of the report from the DOJ and the FBI, the police chief shall review the criminal history (if any) of the applicant.

2. **Investigation of location and premises of cannabis business.** Upon receipt of an application for a cannabis business registration, the police chief shall refer the application to the city's community development department, who shall refer the application to the appropriate city departments to review the project for compliance with the city's zoning code, building code, fire safety standards and any other applicable city codes.

3. **Additional investigation.** The police chief may conduct additional investigation in a manner authorized by law when necessary to determine whether the applicant meets the qualifications for registration pursuant to this article.

SEC. 9.95. Grant or disqualification of application for registration.

a. **Time for grant or disqualification of applications.** The police chief shall grant or disqualify the application for registration within sixty (60) calendar days of the applicant's submission of the application and all required supplementary material. When necessary to conduct a complete investigation of an application, the police chief may extend this time to ninety (90) calendar days.

b. **Provisional approval of registration of managers and employees.** The police chief may grant provisional approval for a person's registration following initial review of the applicant's criminal history and pending completion of any additional investigation. The provisional approval is only valid until the registration is granted or disqualified.

c. **Grounds for disqualification from registration.** The police chief shall disqualify an application for a registration if any of the following circumstances exist:

1. The application is incomplete and/or required supplementary materials are not submitted on a timely basis;

2. The applicant denied the police chief or any other city official charged with enforcing the provisions of this code reasonable access to conduct an inspection, investigation or audit as provided for in this chapter;

3. The operation of the cannabis business at the proposed site would violate the city's zoning, building or fire regulations, or other provisions of the city code;

4. The applicant has previously had a cannabis business registration or similar license, or registration revoked by the city or any other public agency;

5. The applicant has made a false, misleading or fraudulent statement or omission of fact in his/her application or other materials submitted with the application;

6. The cannabis business violates or has violated the terms and conditions of any requirement of this code related to the operation of a cannabis business, other than solely because of its existence after the effective date of this chapter;

7. The cannabis business or any one (1) of its owners or managers have owned or leased a location or premises that has been the subject of an administrative, civil or criminal nuisance abatement action and court judgment or administrative determination finding the location or premises to be a nuisance within the past five (5) years;

8. The applicant was disqualified from the registration process under this chapter on one (1) or more of the grounds provided in this section within five (5) years prior to the date of the current attempt to register;

9. The cannabis business's registration, permit, license or any other authorization issued by the city or by any state or local agency and required to operate a cannabis business has been deemed null and void or has been suspended or revoked or otherwise nullified within the past five (5) years;

10. The cannabis business has conducted itself in a manner that creates or results in a public nuisance;

11. If the cannabis business is a corporation, the corporation is not in good standing or authorized to do business in the state;

12. The cannabis business fails to maintain a license issued by the State of California pursuant to Division 10 of the Business and Professions Code and the California Code of Regulations as currently defined or as may be amended;

13. The cannabis business conducted, conducts or anticipates conducting a cannabis business on a location or premises and such operation is prohibited under the terms of the lease for the location or premises or under the terms of another such document which memorializes the cannabis business's right to possess the location or premises;

14. The cannabis business has as an owner, manager or has individual members or persons participating in the processing, manufacturing, transporting or dispensing of cannabis, who holds office in, or is employed by, any agency of the State of California and any of its political subdivisions, including the city, when the person's duties include the enforcement and regulation of cannabis businesses or any other penal provisions of law of the State of California prohibiting or regulating cannabis businesses.

15. The applicant has a conviction that is substantially related to the qualifications, function, or duties of the business, to include:

i. A conviction of illegal volatile cannabis manufacturing under Health and Safety Code Section 11379.6 for a period of five (5) years from the date of conviction.

ii. A conviction of violating any law involving distribution of cannabis to minors for a period of five (5) years from the date of conviction.

iii. A conviction of conducting any illegal cannabis activity for a period of five (5) years from the date of conviction.

iv. A conviction of violating any State or local law involving distribution or sales of tobacco or alcohol to minors for a period of five (5) years from the date of conviction.

v. A violent felony conviction as defined in California Penal Code Section 667.5, a serious felony conviction as defined in California Penal Code Section 1192.7 or a felony conviction for violating any law involving violent crimes, sex trafficking, rape, crimes against children, gun crimes or hate crimes for a period of twenty (20) years from the date of conviction or completion of a term of imprisonment, supervised release or probation imposed as a sentence for the conviction, whichever is later.

vi. A conviction for a crime involving fraud, deceit, or embezzlement for a period of five (5) years from the date of conviction.

vii. The police chief may determine that a person may be disqualified due to previous noncannabis drug felonies.

viii. A conviction of violating any state or local law involving wage or labor for a period of five (5) years from the date of conviction.

ix. The police chief should base the determination of disqualification using the Criteria for Rehabilitation as described in Title 16, Division 42, Chapter 1, Article 3, Section 5017 of the State of California Code of Regulations.

d. **Notice to applicant of grant or disqualification of application.** The police chief shall give written notice to the applicant of the grant or disqualification of the application for registration by certified mail or in-person delivery. If the application is disqualified, the notice shall advise the applicant of the reasons for the disqualification and of his/her right to appeal the decision to the police chief through the procedures set forth in subsection (e) below.

e. **Appeal of denial of registration to city manager.** Upon the disqualification of an application for registration by the police chief, the applicant may appeal to the city manager through the following procedures:

1. **Request for appeal hearing.** The applicant shall file a written request for an appeal hearing, which states the specific grounds on which the decision of the police chief to disqualify the registration is contested, with the city manager's office within five (5) business days of the delivery of the police chief's decision to the applicant at the most recent home or business address on file with the police department or within ten (10) business days of service of the police chief's decision in the United States mail by certified mail.

2. **Notice of time and place of hearing.** Upon receipt of a timely request for an appeal hearing, the police chief shall notify the applicant in writing of the date, time and place of the hearing before the city manager, which shall not be less than five (5) business days after the service of such written notice on the applicant by in-person delivery at the most recent home or business address on file with the city or ten (10) business days after the deposit of the notice in an envelope addressed to the applicant in the United States mail by certified mail.

3. **Hearing before city manager.** At the hearing, both the applicant and the police chief shall have the right to appear and be represented by counsel, and to present

evidence and arguments relevant to the grounds on which the decision to disqualify the application is appealed. The burden of proof shall be on the applicant to show that he/she meets the qualifications for registration and is entitled to the granting of such registration.

4. **Decision of city manager.** Within ten (10) business days of the hearing, the city manager shall issue a written decision which states whether the decision to disqualify the application is upheld or reversed, and the reasons for this determination. The decision shall be served upon the applicant by in-person delivery or by certified mail. The decision of the city manager shall be final.

SEC. 9.96. Effect of completed registration—No vested right.

A registration deemed completed by the police chief is merely an acknowledgement of the cannabis business's compliance with the registration requirements of this chapter, and its ability to assert an affirmative defense to civil and criminal enforcement of the Mountain View city code based solely upon conduct which is in strict compliance with the provisions of this chapter. A completed registration does not grant the cannabis business any right to operate in the city. Any cannabis business submitting a registration form should have no expectation that a registration will ultimately be deemed complete, nor that once so deemed, that its registration will continue.

SEC. 9.97. Business license.

It is unlawful for any person to open or operate a cannabis business without obtaining and maintaining in effect a city business license.

SEC. 9.98. Operating requirements for cannabis businesses.

Unless otherwise specified herein, all cannabis businesses shall comply with the following operational requirements. The provisions of this part shall constitute terms and conditions applicable to each registration.

a. **Compliance with city code.** The cannabis business shall at all times comply with all provisions of Chapter 36 of the city code. All occupancies, construction and equipment used therein shall meet all conditions of the current state, local, building, fire and any other applicable provision of state or city code prior to the processing, manufacturing, transporting or dispensing of cannabis at or from the premises or location, and all taxes as required by Chapter 43 of the city code shall be paid.

b. **Compliance with rules and regulations.** Every cannabis business and registrant shall comply with all requirements in the rules, regulations and administrative guidelines promulgated by the police chief for the administration of this chapter.

c. **Transactions.** All transactions shall be in United States Currency, fully documented at the time of the sale or transfer, completed in compliance with state law and as required by such procedures in rules and regulations governing the administration thereof as are adopted by the police chief.

d. **Accounting.** Each cannabis business shall account for all monetary contributions or payments. Monetary contributions or payments shall be made by cash, personal check, cashier's check or credit card in United States Currency. All accountings, billings, and contributions (whether in-kind, monetary or property) shall be fully documented, in writing and in accordance with this chapter, and shall be submitted to the finance and administrative services director as required by Chapter 43.

e. **Security.** Each cannabis business shall operate security systems, procedures and personnel in compliance with state law and as required by such procedures in rules and regulations governing the administration thereof as are adopted by the police chief.

f. **Storing, packaging and dispensing cannabis.** All cannabis processed, manufactured, obtained, purchased or distributed by the cannabis business must be stored and dispensed in strict accordance with state law and this chapter. All cannabis dispensed by a cannabis business must comply with all other provisions of this chapter, all regulations promulgated by the police chief and such procedures in rules and regulations governing the administration thereof as are adopted by the police chief.

g. **Maintenance of records.** All cannabis businesses shall maintain all records and documents required by this chapter, Chapter 43, and all the information and records listed in rules and regulations governing the administration thereof as are adopted by the police chief.

h. **Reasonable inspections.** Duly authorized city officials may conduct reasonable inspections of cannabis businesses to ensure compliance with state law, local law, and rules and regulations, including, but not limited to, annual inspections. An inspection, investigation or audit is a review of any books, records, accounts, inventory, vehicles, or on-site operations specific to the cannabis business.

1. Failure to cooperate fully with an inspection, investigation or audit is a violation of this chapter.

SEC. 9.99. Condition of premises.

The following requirements apply to cannabis businesses:

a. **Public safety and safety of location.** Each cannabis business shall operate in a manner such that the cannabis business does not adversely affect the health or safety of nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration or other impacts, and does not create hazards due to the use or storage of materials, processes, products or wastes.

b. **Required maintenance of cannabis business.** All premises and facilities of the cannabis business shall be maintained in a clean and sanitary condition and shall be thoroughly cleaned after each day of operation. The premises and facilities shall meet applicable code requirements of the city, including, but not limited to, those related to the safety of the structure, adequacy of the plumbing, heating, ventilating, lighting, and requirements in such rules and regulations governing the administration thereof as are adopted by the police chief.

c. **Adverse impacts.** Otherwise operate in a manner that does not create or result in any significant adverse impacts upon its premises and location or adjacent to the premises and location.

SEC. 9.100. Prohibited acts.

a. **Alcohol and tobacco prohibited.** No cannabis business shall cause or permit the sale, dispensing or consumption of alcoholic beverages or tobacco products at the premises and/or location or in the parking area for the premises and/or location.

b. **Cannabis use prohibited.** Cannabis may not be inhaled, smoked, eaten, ingested, vaped or otherwise used or consumed at the premises and/or in any public place, or in those areas restricted under the provisions of California Health and Safety Code Section 11362.79, Section 26200 of the Business and Professions Code or other

applicable state law. A notice prohibiting smoking, ingesting and consuming cannabis shall be clearly and legibly posted in the cannabis business.

c. **Minors prohibited.** No persons under the age of twenty-one (21) shall be allowed on the premises. No cannabis shall be provided, sold or transferred to any person who is not age twenty-one (21) or older.

Violations of subsection (a), (b) and (c) above shall be grounds for the suspension or revocation of a cannabis business registration by the city, but shall not constitute criminal offenses under this code.

SEC. 9.101. Cannabis delivery.

The following requirements apply to cannabis businesses conducting deliveries:

a. Cannabis businesses are prohibited from delivering cannabis to any person or location within the city, except if they are a cannabis business permitted in accordance with the zoning code and registered with the city for delivery, or a cannabis business that is not located in the city limits, but is: (1) licensed with the State of California; (2) permitted, registered or otherwise authorized to deliver from another municipal or county jurisdiction; and (3) obtains a business license with the city.

b. The police chief shall promulgate regulations to establish an application process and procedures to allow cannabis businesses registered pursuant to this chapter to deliver cannabis within the city.

c. It is a violation of the city code for any cannabis business making deliveries in the city to fail to comply with state law, Chapter 9 and Chapter 43 of the city code and other applicable laws, ordinances and regulations from the jurisdiction where the delivery originates.

d. The fees associated with the registration process for delivery shall be as set forth in the schedule of fees and charges established by council resolution.

e. **Delivery vehicle requirements.**

1. The police chief shall promulgate regulations to establish security procedures, vehicle requirements, cannabis storage requirements, age verification requirements, hours of the day during which deliveries may be made, vehicle tracking requirements and any other requirements as deemed necessary by the police chief.

2. All delivery vehicles shall be subject to inspection by the police chief or any law enforcement officer;

3. The cannabis business shall obtain and maintain for each delivery vehicle and driver all of the insurance requirements as may be presently or in the future required by any financial responsibility laws of the State of California.

f. **Delivery driver requirements.**

1. Each driver making deliveries for a cannabis business shall carry a valid identification card issued by a registered cannabis business, or a copy of a valid City of Mountain View business license and a copy of a valid cannabis retail license required by the State of California.

2. The cannabis business is responsible for the conduct of its drivers and any city code violations that occur, and any such violation is grounds for revocation of the business's registration.

SEC. 9.102. Mobile dispensaries prohibited.

Except as provided in the city code, a cannabis business may only dispense from its sole dispensing location.

SEC. 9.103. Transfer of cannabis business registration.

No person shall assign or transfer any notice of completed registration issued under this chapter and any attempt to assign or transfer any notice of completed registration issued pursuant to this chapter shall render the notice of completed registration null and void.

SEC. 9.104. Expiration and renewal of cannabis business, owner, manager, and member registration, payment of renewal fee.

a. All cannabis business registrations shall expire one (1) year after the date of their issuance, unless revoked sooner by the police chief.

b. Applications for renewal of a registration must be submitted to the police chief by no later than sixty (60) calendar days before the expiration of such registration on a form provided by the police department, which shall require the applicant for renewal to update the information contained in his/her original application.

c. The applicant must pay the city a nonrefundable renewal fee, in the amount established by council resolution, at the time of filing his/her application for renewal.

d. After investigating the application for renewal, the police chief may renew the registration, if the applicant continues to meet the standards for the issuance of a registration, and none of the grounds for disqualification of a registration set forth in this chapter exist.

e. The police chief shall give the applicant for renewal written notice of his/her decision within sixty (60) calendar days of the submittal of the application for renewal to the police department by in-person delivery of the decision to the applicant at his/her most recent home or business address on file with the police department or deposit of the decision in the United States mail by certified mail. If the application is disqualified, the notice shall state the specific grounds for the disqualification and that the applicant may appeal to the city manager through the procedures set forth in Section 9.95(d).

f. If the holder of a registration does not file a timely application for renewal (sixty (60) calendar days before expiration of the registration), he/she shall be required to file an application and satisfy the additional requirements for a new registration pursuant to Sec. 9.94 and pay the applicable fees.

SEC. 9.105. Suspension and revocation of registration.

a. **Owner responsibility.** An owner of the cannabis business shall be responsible for the conduct of all employees while on the premises of the cannabis business providing delivery services.

b. **Grounds for suspension or revocation of registration.** The police chief may suspend for a period of up to nine (9) months or revoke a registration, according to procedures set forth in subsection (c) below, if there is probable cause to believe that:

1. Business is conducted by a person who does not have a valid registration.

2. The registered owner, manager or employee has operated or managed the cannabis business, or any employee at the cannabis business has acted in a manner which violates any provision of this article, rules and regulations or other applicable city code provisions or state law;

3. The applicant has made a materially false or misleading statement or omission of fact on his/her application for a registration or for renewal of registration, or in any supplementary materials submitted with the application;

4. The applicant is operating or managing the cannabis business in a manner which poses a danger to the health and safety of the public.

c. **Procedure for revocation or suspension of registration.**

1. **Suspension of registration pending hearing.** Whenever the police chief has probable cause to believe that grounds under Subsection 9.105(b)(4) or any offense set forth in Subsection 9.95(b)(15) giving rise to grounds under Subsection 9.105(b)(2) for the suspension or revocation of a registration exist, he/she may immediately suspend the registration by written notice pending the hearing process set forth in this subsection. If a registration is immediately suspended, the police chief shall give written notice of the hearing date, time and place to the registration holder within three (3) business days of the suspension and as set forth in Subsection 2 below. A hearing shall be scheduled in accordance with Subsection 3 below and shall be held within thirty (30) calendar days of delivery of the hearing notice. All other subsections in 9.105(c) shall apply unless where expressly stated otherwise.

2. **Notice to registration holder.** Whenever the police chief has probable cause to believe that grounds for the suspension or revocation of a registration exist, he/she shall give the registration holder written notice of the date, time and place of a hearing to be held before the police chief on whether the registration should be suspended or revoked. The notice shall state the alleged grounds for the proposed revocation or suspension of the registration, and the notice shall be served on the registration holder in person at the most recent home or business address on file with the police department or by deposit of the notice in the United States mail by certified mail.

3. **Hearing before police chief.** The hearing on the revocation or suspension of the registration shall be held before the police chief no less than five (5) business days after the in-person delivery of the notice to the registration holder at the most recent home or business address on file with the police department, or no less than ten (10) business days after deposit of the notice, addressed to the registration holder, in the United States mail by certified mail.

At the hearing, the registration holder and a representative of the city shall have the right to appear and to be represented by counsel, and to present evidence and arguments which are relevant to a determination of whether grounds for suspension or revocation of the registration exist.

4. **Decision of police chief.** Within ten (10) business days after the hearing, the police chief shall issue a written decision which states whether the registration is

suspended or revoked, the length of any suspension and the factual basis for the decision, and that the registration holder may appeal any suspension or revocation to the city manager through the procedures set forth in Paragraph 6, below. The decision of the police chief shall be served on the registration holder by in-person delivery at the most recent home or business address on file with the police department or deposit of the notice, addressed to the registration holder, in the United States mail by certified mail.

5. **Request for appeal hearing before city manager.** The registration holder may appeal the decision of the police chief by filing a written request for an appeal hearing, which states the specific grounds on which the decision of the police chief is contested, with the city manager's office within five (5) business days of the in-person delivery to the registration holder of the police chief's decision at the most recent home or business address on file with the police department, or within ten (10) business days of service of the decision by deposit of the notice, addressed to the registration holder, in the United States mail by certified mail.

6. **Appeal hearing before city manager.** Upon receipt of a timely request for an appeal hearing, the city manager's office shall notify the registration holder in writing of the date, time and place of the hearing before the city manager, which shall not be less than five (5) business days after service of such written notice on the registration holder by in-person delivery at the most recent home or business address on file with the police department, or ten (10) business days after service of the notice by deposit of the notice, addressed to the registration holder, in the United States mail by certified mail.

At the hearing, both the registration holder and the police chief shall have the right to appear and be represented by counsel and to present evidence and arguments which are relevant to the grounds for the appeal, as stated in the request for an appeal hearing. Within ten (10) days of the hearing, the city manager shall issue a written decision which states whether the decision of the police chief is upheld, modified or reversed, and the length of any suspension. The decision shall be served on the registration holder by in-person delivery or by certified mail. The decision of the city manager shall be final.

7. **Effective date of revocation or suspension.** Except when a registration is suspended pending a hearing, any suspension or revocation of a registration shall become effective immediately upon the in-person delivery of the written decision of the police chief, or, in the event of an appeal, the city manager, to the registration holder at the most recent home or business address on file with the city, or within five (5) business days of the deposit of such decision addressed to the registration holder into the United States mail by certified mail.

8. **Surrender of suspended or revoked registration to police chief.** Upon a written decision by the police chief, or in the event of an appeal, by the city manager, which suspends or revokes a registration the registration shall immediately be surrendered to the police chief. In the case of a suspension, the police chief shall return the registration after the period of suspension has ended.

SEC. 9.106. Cannabis business operated in violation of this article deemed a public nuisance.

Any cannabis business which is opened, operated or maintained contrary to the provisions of this article shall be deemed a public nuisance. In addition to or in lieu of any other available legal remedies, the city attorney or district attorney of Santa Clara County may commence a civil legal action or actions in a court of competent

jurisdiction to abate such nuisance and to enjoin the continued operation and maintenance of the cannabis business in a manner prohibited by this article.

SEC. 9.107. Release of liability and hold harmless.

The cannabis business and its owners, managers, members, agents, invitees, contractors and employees shall release the city and its agents, officers, elected officials and employees from any injuries, damages or liabilities of any kind that result from any arrest or prosecution of the cannabis business and its owners, managers, members, agents, invitees, contractors and employees for violation of federal or state laws and from any and all legal liability related to or arising from the registration of the cannabis business or the enforcement of the provisions of this chapter, in a form satisfactory to the city's risk manager. In addition, the cannabis business and its owners, managers, members, agents, invitees, contractors and employees shall indemnify and hold harmless the City of Mountain View and its agents, officers, elected officials and employees for any claims, damages, or liabilities arising from claims filed by third parties due to the operations at the location or premises or arising from claims filed by the cannabis business's owners, managers, members, agents, invitees, contractors and employees arising out of the possession, manufacturing or dispensing and/or on- or off-site use of cannabis provided at the location or premises, in a form satisfactory to the city attorney."

Section 2. The provisions of this ordinance shall be effective thirty (30) days from and after the date of its adoption.

Section 3. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the other remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

Section 4. Pursuant to Section 522 of the Mountain View City Charter, it is ordered that copies of the foregoing proposed ordinance be posted at least two (2) days prior to its adoption in three (3) prominent places in the City and that a single publication be made to the official newspaper of the City of a notice setting forth the title of the ordinance, the date of its introduction, and a list of the places where copies of the proposed ordinance are posted.

Section 5. This ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) (the activity will not result in a direct or reasonable foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly).

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The foregoing ordinance was regularly introduced at the Special Meeting of the City Council of the City of Mountain View, duly held on the 2nd day of October 2018, and thereafter adopted at the Regular Meeting of said Council, duly held on the 23rd day of October 2018, by the following roll call vote:

AYES:	Councilmembers Clark, McAlister, Showalter, and Mayor Siegel
NOES:	Councilmember Abe-Koga and Vice Mayor Matichak
ABSENT:	Councilmember Rosenberg
NOT VOTING:	None

ATTEST:

LISA NATUSCH
CITY CLERK

APPROVED:

LEONARD M. SIEGEL
MAYOR

I do hereby certify that the foregoing ordinance was passed and adopted by the City Council of the City of Mountain View at a Regular Meeting held on the 23rd day of October 2018, by the foregoing vote, and was published in the *San Jose Post Record* by reference on the 19th day of October 2018, and posted in three prominent places in said City.

City Clerk
City of Mountain View

CB/5/ORD
891-10-02-18o